IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1165 of 2005

Between:

Sri Lakshmi Modern Rice Mills, Huzunagar, rep by its Owner,
Sri Pendyala Koteswara Rao, S/o. Dasaiah, aged 59 years,
Occ : Business, R/o. Huzurngar, Nalgonda District.

..... PETITIONER

AND

1 The Assistant Engineer, Operation, A.P. Transco, Huzurnagar, Nalgonda District.
2 Asst. Divisional Engineer (Operation) A.P. Transco, Nalgonda, Nalgonda District.
3 The Superintending Engineer (Operations) A.P. Transco, Nalgonda, Nalgonda District.
4 The Chief Engineer, A.P. Tranco, Hyderabad.
5 The Junior Accounts Officer, Sub. ERO/Huzurnagar, Nalgonda District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order, or direction, particularly one in the nature of Writ of Mandamus, declaring the action of the respondents-Corporation in disconnecting the power supply to the petitioner rice mill (SC. No. 3104 of Huzurnagar, without adjudication/ Settlement of dispute among them is illegal, improper, violative of principles of natural justice, against to the rights of the consumer like the petitioner guaranteed by both the constitution of India as well as the guidelines of the Corporation; and direct the respondents to settle the disputed matter/amounts expeditiously and adjust the same towards the bills of consumption charges of the petitioner mill with a consequential direction directing respondents to give reconnection to the petitioner mill with immediate effect and pass such other orders or orders

Counsel for the Petitioner:MR.K.INDRA REDDY
Counsel for the Respondents: MR.V.AJAYAKUMAR

The Court made the following :

ORDER:

Petitioner is a rice mill. It was extended the power supply by the respondents under the relevant category, in the year 1994. The mill premises was inspected by the officials of the respondents on 31.08.1995. Certain acts of pilferage were noticed. Proceedings ensued between the petitioner and the respondents, and ultimately it emerged that a sum of Rs.1,14,890/-, being the cost of pilfered energy is payable. As against this, the petitioner paid a sum of Rs.1,12,000/-, in pursuance of the various orders passed by this Court as well as the concerned authorities. A sum of Rs.2,890/- is due towards payment of the cost of pilfered energy.

The respondents issued bills from time to time for monthly consumption charges and it is their case that ever since the order of final assessment was passed, the petitioner did not pay the same, on one pretext or the other. An amount of Rs.3,23,940/- is said to be due. The power supply was disconnected for non-payment of the said amount. Petitioner challenges the action of the respondents in disconnecting the power supply.

Heard the learned counsel for the petitioner and the learned standing counsel for respondents.

The liability of the petitioner to pay various amounts arises under two separate heads. The first is on account of the acts of pilferage, noticed by the respondents and the other is the regular consumption charges. As regards the first one, the liability came to be fixed at Rs.1,14,890/- and except for Rs.2,890/-, the balance is paid. While the petitioner contends that the regular consumption charges, when offered, were not accepted by the respondents, the latter plead that there was a willful default on the part of the petitioner.

Through an order, dated 03.02.2005, this Court directed restoration of power supply to the petitioner on payment of a sum of Rs.1,00,000/-. The same is said to have been complied with. It is too difficult for this Court to record any findings as to the actual liability of the petitioner in this scenario. The petitioner can submit the receipts, if any, for payment of the bills, and the respondents, in turn, can take the same into account and determine the amount payable by the petitioner. If it emerges that the petitioner is still to pay any amount, the same be permitted to be paid in three monthly installments. Inasmuch as there exists some communication gap between the parties, this Court is of the view that the petitioner cannot be mulcted with any liability to pay any surcharge.

For the foregoing reasons, the writ petition is disposed of directing that;

a. The respondents shall issue a statement of account indicating the liability of the petitioner, within one week from the date of receipt of a copy of this order.

b. The petitioner shall place such material as he is in possession, as regards payment of such bills, within one week thereafter.

c. On a consideration of the same, the respondents shall intimate to the petitioner, the actual amount to be paid by him. The petitioner shall be liable to pay the amount, so ascertained, in three monthly installments, commencing from the date of communication of such order. No surcharge shall be levied, in case the petitioner clears the arrears within three monthly installments. However, if he fails to pay the same, the amount shall carry surcharge.

There shall be no order as to costs.

_____

L.NARASIMHA REDDY, J

Dated : 21.02.2005

TS

To

1 The Assistant Engineer, Operation, A.P. Transco, Huzurnagar, Nalgonda District.
2 Asst. Divisional Engineer (Operation) A.P. Transco, Nalgonda, Nalgonda District.
3 The Superintending Engineer (Operations) A.P. Transco, Nalgonda, Nalgonda District.
4 The Chief Engineer, A.P. Tranco, Hyderabad.
5 The Junior Accounts Officer, Sub. ERO/Huzurnagar, Nalgonda District.

6 2CD copies.